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C O N F I D E N T I A L SECTION 01 OF 03 QUITO 000236

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SUBJECT: ANOTHER DEFECTION FROM GUTIERREZ'S INNER CIRCLE?

REF: GUAYAQUIL 132

Classified By: Ambassador Kristie A. Kenney, Reason 1.4 (b)

1. (C) SUMMARY: Tired and forlorn, Presidential Legal Advisor and close Embassy contact Carlos Larrea informed Poloffs January 27 that President Lucio Gutierrez was feeling growing pressure from legislative allies for cabinet and policy changes. The PRE party sought ministerial positions from which it could rob public troughs, as well as exiled leader Abdala Bucaram's return to Ecuador. Alvaro Noboa's PRIAN opposed Gutierrez's judiciary reform referendum, preferring the results of Congress's December 2004 court housecleaning which left them controlling key criminal tribunals. Neither wanted Larrea around, playing devil's advocate to their Machiavellian maneuverings and advising the president on Ecuadorian legalities. To preempt a move to sack him, Larrea planned to resign from the Presidency and return the Central Bank.

2. (C) Gutierrez's referendum required both legislative and civil society backing to succeed, Larrea ventured. It currently had neither. Should the measure fail, the president was readying additional, further-ranging plebiscites that included questions on dissolving Congress, removing the sitting president, and even crafting a new constitution (Poloffs warned that such moves would damage heretofore good relations with the United States). Despite the president's focus on referenda and Congress's continued, petty bickering, Larrea thought the legislature would move on its thick agenda in 2005. On items of interest to the USG, anti-TIP and labor reform measures looked promising, but energy sector changes appeared doomed. END SUMMARY.

Signs of a Gathering Storm

3. (C) Eternally candid and usually helpful, Larrea is the Embassy's closest extradition contact and an ally in the trafficking in persons (TIP) fight. He also is the president's primary legal counsel and drafted much of the judiciary reform referendum that Congress is currently considering. Larrea visited the Embassy January 27, talkative but unusually pessimistic. Changes in the government were coming, he revealed, the product of Gutierrez's alliances with his former detractors.

4. (C) PRE pressures were rising, Larrea claimed. To the one constant -- that fugitive PRE leader Abdala Bucaram be allowed to return without facing justice -- were added party demands for key ministries. Energy, Public Works, and Education topped the PRE list, all institutions flush with cash and easily tapped. Bucaram's lackeys considered him a wrench in their plans, Larrea boasted, and sought his ouster. The pressure growing and the stress taking its toll, he was considering submitting a letter of resignation. Larrea's old post at Ecuador's Central Bank awaited.

5. (C) Noboa's ranks were not yet demanding ministries. They strongly opposed the president's referendum, however, seeing it contrary to party goals -- PRIAN-affiliated judges now controlled the Supreme Court's criminal tribunals and were well-placed to defeat legal efforts against Noboa's business interests and practices.

6. (C) Larrea predicted imminent changes in Gutierrez's cabinet. He was unsure whether the president would award his PRE "allies" the ministries they sought. On Jaime Damerval, however, Larrea was certain: the embattled minister of government must go. Damerval picking a fight with popular Guayas Governor Jaime Nebot had spawned Nebot's "White March," a pro-autonomy protest in Guayaquil that buoyed the opposition and made Gutierrez look bad (Reftel). Larrea saw no change at the Foreign Ministry, despite recent public outcry over FM Patricio Zuquilanda nominating presidential brother-in-law Napoleon Villa, a retired police colonel, for an Andean Court of Justice judgeship (Villa eventually withdrew his name from consideration). In naming Villa, Zuquilanda had sought to curry Gutierrez's favor, never a bad thing in this administration, Larrea snickered.

President Serious on Court Referendum

17. (C) Gutierrez was committed to seeking the public's input on the Supreme Court's eventual makeup; the current Court truly was interim, Larrea claimed. Proof lay in the president's recent letter to Congress, in which he threatened to pull out of the "institutional majority" were the legislature to vote down his initiative. Larrea thought civil society outrage over sitting judges' poor qualifications and alleged ties to drug traffickers was appropriate. Rank-and-file Ecuadorians should have a vote on individual judges or judge selection procedures, to prevent such characters from obtaining public office.

18. (C) Larrea was skeptical the referendum would materialize. One scenario had the Constitutional Affairs committee in Congress issuing a majority opinion approving the measure, but the plenary voting it down. There would be no alliance discipline over this vote; PRE and PRIAN deputies would vote no for self-serving reasons, leftist MPD and Socialist for non-inclusion of pet issues, like opposition to the Free Trade Agreement or the base in Manta. Now-opposition parties the PSC and ID might support the referendum, however, since it offered a chance to get sympathetic justices back in office. Larrea noted that Gutierrez realized the referendum, as written, was imperfect, and would accept reasonable changes if they helped to gather support.

19. (C) Civil society was wrong in opposing the measure only because it came from Gutierrez's hand. Larrea believed the referendum needed popular support even more than it needed help in Congress. With current judges initiating legal proceedings against protesters for excessive horn-tooting and flag-burning outside Court headquarters, however, it was doubtful that groups like Citizen Participation and ProJusticia would back any government-driven judiciary reform.

10. (C) The president was readying contingency plans, Larrea revealed. Other referenda were in the works, should Congress shoot down the original. The first resembled the original, but offered more generic questions on court depoliticization. Another, which Larrea deemed dangerous to democracy, would allow the president to dissolve Congress once during his term (for balance, Congress could also remove the chief executive with a two-thirds vote, without having to conduct a political trial). Polchief responded that such moves would be fatal to U.S.-Ecuador relations. Last, the president was considering a call for a constitutional congress, with eyes toward drafting Ecuador's 23rd Magna Carta.

Congress Soon To Roll Up Sleeves?

11. (C) Larrea brightened when he turned toward Congress's agenda in 2005 (or perhaps it was the dozen Hershey's Kisses he'd just downed). The administration was concluding preparations of a much-needed competition law, a version of which was struck down two years prior. Responding to a Polchief inquiry, Larrea believed the road open for anti-TIP legislation before year's end. Labor reform, a necessity should Ecuador wish to conclude FTA negotiations with the United States, was further off but still do-able.

12. (C) The economic agenda looked tougher, Larrea feared. Finance Minister Mauricio Yopez, a brilliant technician, was a "horrible" politician. Yopez favored bundling electrical sector reform, a popular measure, with hydrocarbon law changes and a revamp of Ecuadorian Social Security. The latter two were controversial, lacked votes, and could take down the former. Larrea favored stand-alone bills.

COMMENT

13. (C) Larrea is plugged-in and not prone to hyperbole; his assurances that Gutierrez supports fully the court referendum are welcome. The bad news? The legal adviser's sky-is-falling comments concerning pressures on the president appear further proof that PRE and PRIAN support come with long strings attached. Yet fissures exist between the two parties that Gutierrez would be wise to exploit. An hour after Larrea departed, an alarmed PRIAN bloc leader Sylka Sanchez telephoned Polchief. Supreme Court President Guillermo Castro, an ardent PRE supporter, allegedly was considering issuance of a ruling to allow Bucaram's return. Sanchez claimed Gutierrez was rumored to be on-board with the action. She had confronted Castro, who denied the allegations immediately. The PRIAN leader intended to follow up with the president, however.
Kenney